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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/785,625	02/23/2004	Eric Rosen	020078C1	2966

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Qualcomm Incorporated
Patents Department
5775 Morehouse Drive
San Diego, CA 92121-1714

EXAMINER

GELIN, JEAN ALLAND

ART UNIT	PAPER NUMBER
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2681

DATE MAILED: 07/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/785,625	ROSEN ET AL.	
	Examiner	Art Unit	
	Jean A. Gelin	2681	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 5, 9, 13, 17, 22, 27, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chinitz (US 6,115,588) in view of Suonvieri (US 5,831,974).

Regarding claims 1, 5, 9, Chinitz teaches (figs. 1 and 2) in a controller, a computer readable medium embodying a method (fig. 2) for reducing latency in a group communication network, the method comprising: receiving a floor-control request from a dormant source communication device for initiating a group call directed to a group of dormant target communication devices, the floor-control request being sent by the dormant source communication device on a reverse common channel of the wireless network (i.e., inbound calls are received via reverse common channel and outbound calls are transmitted to mobile unit via forward common channel, col. 5, lines 23-39); and transmitting wakeup messages to the group of dormant target communication devices (col. 5, lines 23-29), the wireless network having released its dedicated traffic channel, typically present to set up connection between the network and the mobile unit..

Chinitz does not specifically teach receiving the request in a short data burst (SBD) form.

However, in an analogous art, Suonvieri teaches a TDMA wireless network in which communications are made in short burst data (SDB) form (col. 1, lines 39-46).

It would have been obvious to one of ordinary skill in the art, at the time the invention was made to modify Chinitz to include the feature that performs the function of receiving the request SDB form as taught by Suonvieri, and TDMA is standard or conventional communications format.

Regarding claims 13, 22, 17, 27, and 32, Chinitz teaches, in figs. 1 and 2, a controller (103) for reducing latency in a group communication network, the communication device comprising: a receiver and transmitter (112, 113) to receive and to transmit information over the network; and a processor (11) communicatively coupled with the receiver and the transmitter, the processor being capable of: receiving a floor-control request a dormant source communication device for initiating a group call directed to a group of dormant target communication devices, the floor-control request being sent by the dormant source communication device on a reverse common channel of the wireless network (i.e., inbound calls are received via reverse common channel and outbound calls are transmitted to mobile unit via forward common channel, col. 5, lines 23-39), the wireless network having released its dedicated traffic channel (i.e., within the common access channel col. 5, lines 23-39); and transmitting wakeup messages to the group of dormant target communication devices (col. 5, lines 23-39).

Chinitz does not specifically teach receiving the request in a short data burst (SBD) form.

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However, in an analogous art, Suonvieri teaches a TDMA wireless network in which communications are made in short burst data (SDB) form (col. 1, lines 39-46).

It would have been obvious to one of ordinary skill in the art, at the time the invention was made to modify Chinitz to include the feature that performs the function of receiving the request SDB form as taught by Suonvieri, and TDMA is standard or conventional communications format.

3. Claims 2, 6, 10, 14, 18, 23, 28, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chinitz in view of Suonvieri further in view of Comroe (US 5,014,345).

Chinitz in view of Suonvieri teaches everything as applied in claims above. However, Chinitz fails to teach receiving the request through a push to talk (PTT) device.

In an analogous art, Comroe discloses a similar wireless network in which a floor control request is received through a PTT device (see col. 10, lines 50-64).

It would have been obvious to one of ordinary skill in the art, at the time the invention was made to modify Chinitz in view of Suonvieri to include the feature that performs the function of receiving the request through a PTT device as taught by Comroe, since PTT devices provide a conventional form of identification.

4. Claims 3, 4, 7, 8, 11, 12, 15, 16, 19, 22, 24, 29, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chinitz in view of Suonvieri further in view of Koo (US 2001/0024431).

Chinitz in view of Suonvieri teaches everything as applied in claims above except transmitting wakeup messages on forward common channel.

In an analogous art, Koo discloses a wireless network in which message are transmitted on a forward common channel (paragraph 10).

It would have been obvious to one of ordinary skill in the art, at the time the invention was made to modify Chinitz in view of Suonvieri to include the feature that performs the function of transmitting wakeup messages on forward common channel as taught by Koo. One of ordinary skill in the art would have been motivated to make this modification because the forward common channel is known and used as industry standard by various service providers.

5. Claims 20, 25, 30, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chinitz in view of Suonvieri further in view of Lee et al. (US 6,246,872).

Regarding claims 20, 25, 30, and 35, Chinitz in view of Suonvieri teaches everything as applied in claims 17 and 22 above except re-establishing a traffic channel.

However, re-establishing a traffic channel is known in the art of communications. Lee teaches a technique to re-establish a traffic channel after the connection is lost (abstract). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to implement the technique of Lee within the system of Chinitz in view of Suonvieri in order to connect the party on the other end of the call to an announcement while the system is paging the mobile in an effort to successfully re-establish connection.

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6. Claims 21, 26, 31, and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chinitz in view of Suonvieri further in view of Park (US 2002/0058532).

Regarding claims 21, 26, 31, and 36, Chinitz in view of Suonvieri teaches everything as applied in claims 17 and 22 above except re-negotiating a radio link protocol.

However, the preceding limitation is known in the art of communications. Park teaches re-negotiating the term of communication link to keep or drop calls (paragraph 133). Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to implement the technique of Park within the system of Chinitz in view of Suonvieri in order to allow service provider to make communication lines available for a reduced price on the condition that the lines can be revoked if a higher paying customer wishes to obtain the line.

Double Patenting

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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8. Claims 1-36 of patent # 6,738,617 contain(s) every element of claims 1-36 of the instant application and as such anticipate(s) claims 1-36 of the instant application.

"A later patent claim is not patentably distinct from an earlier patent claim if the later claim is obvious over, or **anticipated by**, the earlier claim. In re Longi, 759 F.2d at 896, 225 USPQ at 651 (affirming a holding of obviousness-type double patenting because the claims at issue were obvious over claims in four prior art patents); In re Berg, 140 F.3d at 1437, 46 USPQ2d at 1233 (Fed. Cir. 1998) (affirming a holding of obviousness-type double patenting where a patent application claim to a genus is anticipated by a patent claim to a species within that genus). " ELI LILLY AND COMPANY v BARR LABORATORIES, INC., United States Court of Appeals for the Federal Circuit, ON PETITION FOR REHEARING EN BANC (DECIDED: May 30, 2001).

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jean A. Gelin whose telephone number is (571) 272-7842. The examiner can normally be reached on 9:30 AM to 7:00 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on (571) 272-4090. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JGelin
July 1, 2005

JEAN GELIN
PRIMARY EXAMINER

A handwritten signature in cursive script that reads "Jean Richard Gelin".